

**IMPLEMENTING RULES AND REGULATIONS (IRR) OF QUEZON CITY
ORDINANCE NO. SP-2336, S-2014, QUEZON CITY CODE PURSUING A
PUBLIC-PRIVATE PARTNERSHIP (PPP) CODE APPROACH TOWARDS THE
DEVELOPMENT, FOR THE PURPOSE OF PRESCRIBING THE NECESSARY
RULES AND REGULATIONS FOR SELECTING PRIVATE SECTOR
PROPONENT AND ADOPTING A CONTRACT MANAGEMENT FRAMEWORK
IN PROVIDING APPROPRIATIONS AND FOR OTHER PURPOSES**

**RULE I
GENERAL PROVISIONS**

SECTION 1. Purpose and General Coverage - This IRR is hereby approved pursuant to Quezon City Ordinance No. SP-2336, S-2014 otherwise known as “Quezon City Code Pursuing A Public-Private Partnership (PPP) Code Approach Towards The Development, For The Purpose Of Prescribing The Necessary Rules And Regulations For Selecting Private Sector Proponent And Adopting A Contract Management Framework In Providing Appropriations And For Other Purposes”.

SECTION 2. Declaration of Policy

- a. It is hereby declared as a policy that Quezon City Government shall advance the public good and general welfare, and promote the interest of the community and the City within the framework of sustainable and integrated development, and effective constructive engagement and meaningful people’s participation in local governance.
- b. PPPs shall be pursued by the City consistent with and in furtherance of its goals as contained in its Comprehensive Development Plan (CDP), Comprehensive Land Use Plan (CLUP), The Revised Quezon City Comprehensive Zoning Ordinance SP-2200, Series-2013, Tourism Development Plan (TDP), and all other development planning documents of the City Government.

SECTION 3. Operative Principles – The accomplishment of the stated policy shall be guided by the following principles:

- a. The City, pursuant to Section 1, 2 and 5, Article X of the 1987 Constitution, is a territorial and political subdivision which enjoys local autonomy and fiscal autonomy. Under Section 3, Article X of the same Constitution, local autonomy means a more responsive and accountable local government structure instituted through a system of decentralization. Fiscal autonomy means that local governments have the power to create their own sources of revenue in addition to their equitable share in the national taxes released by the national government, as well as the power to allocate their resources in accordance with their own priorities.

- b. The general welfare and the public good shall always be promoted and that transparency, public accountability and social accountability mechanisms and approaches shall be integrated in PPPs from inception to implementation.
- c. The City exists and operates in its governmental and proprietary capacities thereby making the City an agent of and is therefore accountable to the State and its community. The role of the City both as a regulator of a business and as implementer of a proprietary undertaking must be clearly delineated.
- d. The City must develop into a self-reliant community, and as such, is in a better position to address and resolve matters that are local in scope. The City is under the supervision of the President and under the control of Congress.
- e. Under Section 18 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991 (1991 LGC), the City may acquire, develop, lease, encumber, alienate, or otherwise dispose of real or personal property held by them in their proprietary capacity and to apply their resources and assets for productive, developmental, or welfare purposes.
- f. Under Section 22 (c) of the 1991 LGC, no contract may be entered into by the Mayor on behalf of the City without prior authorization by the Sangguniang Panlungsod. The participation of the Sanggunian is indispensable in the adoption and implementation of a PPP arrangement.
- g. Under Section 22 (d) of the 1991 LGC, the City enjoys full autonomy in the exercise of its proprietary functions and shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, those not otherwise prohibited by law and those which are essential to the promotion of the general welfare.
- h. Under Section 25 (b) of the 1991 LGC, the City may collaborate or cooperate with other governments, national government agencies, government-owned and controlled corporations, government instrumentalities and government corporate entities for the implementation of local projects.
- i. Under the charter of the City, Sections 16, 17, 19 and 129 of 1991 LGC and other statutes, the City has been given the responsibility and mandate to exercise devolved and delegated powers.
- j. The City, under Section 106 of 1991 LGC, is mandated to draw up and implement a comprehensive multi-sectoral development plan. PPPs

shall be pursued by the City consistent with its infrastructure, development, investment, environmental and governance framework embodied in relevant policies, plans, ordinances and codes.

- k. The City, as a partner in a PPP arrangement, may provide equity, subsidy or guarantee and use local funds; and the usage thereof for a PPP project shall be considered for public use and purpose.
- l. Under Sections 34, 35 and 36 of the 1991 LGC and in the exercise of its powers, the City may enter into joint ventures and such other cooperative arrangements with people's and non-governmental organizations to engage in the delivery of certain basic services, capability-building and livelihood projects, and to develop local enterprises designed to improve productivity and income, diversity agriculture, spur rural industrialization, promote ecological balance, and enhance the economic and social well-being of the people; provide assistance, financial or otherwise, to such people's and non-governmental organizations for economic, socially-oriented, environmental, or cultural projects to be implemented within its territorial jurisdiction.
- m. The City, under Section 3 (I) of the 1991 LGC, is duty bound to ensure the active participation of the private sector in local governance.
- n. The right of the people to information on matters of public concern is guaranteed under Section 7, Article III of the 1987 Constitution. Furthermore, it is the policy of the State to allow full public disclosure of all its transactions involving public interest such as PPPs under Section 28, Article II of the 1987 Constitution.
- o. The people's right to effective and reasonable participation and public trust provision under Section 16, Article XIII and Section 1, Article XI, respectively, of the 1987 Constitution guarantee and empower civil society groups to have effective and meaningful participation in the regulation and management of PPP projects.

SECTION 4. Rationale for PPP – PPPs shall be promoted to provide more, better, affordable and timely services to the community. In pursuing PPPs, the City shall be guided by the following reasons and drivers:

- a. PPPs shall be undertaken in furtherance of the City's Comprehensive Development Plan, Comprehensive Land Use Plan and physical framework plan.
- b. PPP is an essential part of the overall infrastructure reform policy of the City. By encouraging performance-based management of the delivery of public services applying commercial principles and incentives whenever possible, by introducing competition in and for

the market, and by involving users and stakeholders in the decision-making process, infrastructure and regulatory reform shall be achieved.

- c. PPPs should be adopted to address a pressing and urgent or critical public need. Under the principle of “Additionality,” the increased economic benefits to consumer welfare of having needed public services and infrastructure accessible now because of the PPP, rather than having to wait until the City could provide the public services much later. PPP would also encourage the accelerated implementation of local projects.
- d. PPPs can be adopted to avoid costs and public borrowing. By contacting with the private sector to undertake a new infrastructure project, scarce City capital budgets can be directed to other priority sectors such as social services, education, and health care.
- e. PPPs allow for technology transfer and improved efficiency and quality of service. These could be valuable contribution of the private sector in local governance.
- f. PPPs should be feasible and affordable, demonstrating the need for the project, broad level projects costs estimation, and indicative commercial viability. The assessment of the affordability shall be cornerstone for all PPP projects, both to the City and the general public.
- g. PPP Projects should be bankable. High participation costs, unreasonable risk transfer or lengthy and complex contract negotiations must be avoided. A cost recovery pricing policy attractive to the private sector must be in place; provided that the same will not be disadvantageous to government and public interest.
- h. PPP Projects should provide value-for-money and good economic value as far as practicable, including allocation of risks to the party best able to control, manage, mitigate or insure these risks, and maximization of the benefits of private sector efficiency, expertise, flexibility and innovation.
- i. PPP Projects must provide economic and social benefits and should be evaluated on this basis rather than on purely financial considerations. The City remains responsible for services provided to the public, without necessarily being responsible for corresponding investment.
- j. PPP Projects must give consideration for empowerment of Filipino citizens as a strategy for economic growth and sustainability and must provide for the participation of local investors to the furthest extent

practicable given the nature of the project. The City shall also ensure the hiring and employment of local labor in the PPP venture.

- k. Procurement of PPP Projects must be competitive and must be undertaken through open competitive bidding. Competition must be legitimate, fair and honest. In the field of government contract law, competition requires, not only bidding upon a common standard, a common basis, upon the same thing, the same subject matter, the same undertaking, but also that it be legitimate, fair and honest; and not designed to injure or defraud the government. Where competitive bidding cannot be applied, a competitive process ensuring both transparency and economically efficient outcome must be employed.
- l. The regulation of the PPP shall be pursuant to the PPP contract and exercised by the appropriate regulatory authority. A duly executed and legal PPP Contract shall be respected and not impaired, and shall be binding on the successor administration pursuant to the provision on corporate succession.
- m. To provide efficient public service, the City must ensure, through stronger performance management and guidance, proper implementation of PPP contracts that will result in value for money, on-time delivery of quality services to the public, achievement of government policy goals, all within sustainable and integrated development.

SECTION 5. Definition of Terms – As used in this Code, the following terms shall mean:

- A. Bidder – Refers to a private sector entity, competing for the award of a contract with the City.
- B. Build-Operate-Transfer Law Scheme - Under Republic Act No. 6957, as amended by Republic Act No. 7718, the following are the BOT variants:
 - 1. Build-and-Transfer (BT) - A contractual arrangement whereby the Private Sector Proponent (PSP) undertakes the financing and construction of a given infrastructure of development facility, and after its completion, turns it over to the City, which shall pay the PSP, on an agreed schedule, its total investment expended on the project, plus a Reasonable Rate of Return thereon.

This arrangement may be employed in the construction of any infrastructure or development project, including critical facilities which, for security or strategic reasons, must be operated directly by the City.

2. Build-Lease-and-Transfer(BLT) - A contractual arrangement whereby a PSP is authorized to finance and construct an infrastructure or development facility and upon its completion, turns it over to the City on a lease arrangement for a fixed period, after which ownership of the facility is automatically transferred to the City.
3. Build-Operate-and-Transfer (BOT) - A contractual arrangement whereby the PSP undertakes the construction, including financing of a given infrastructure facility, and the operation and maintenance thereof. The PSP operates the facility over a fixed term, during which it is allowed to charge facility users appropriate tolls, fees, rentals, and charges not exceeding those proposed in its bid, or as negotiated and incorporated in the contract, to enable the PSP to recover its investment, and its operating and maintenance expenses in the project. The PSP transfers the facility to the City at the end of the fixed term which shall not exceed fifty (50) years. This build, operate and transfer contractual arrangement shall include a supply-and-operate scheme, which is a contractual arrangement whereby the supplier of equipment and machinery for a given infrastructure facility, if the interest of the City so requires, operates the facility, providing, in the process, technology transfer and training to Filipino nationals.
4. Build-Own-and-Operate (BOO) - A contractual arrangement whereby a PSP is authorized to finance, construct, own, operate and maintain an infrastructure or development facility from which the PSP is allowed to recover its total investment, operating and maintenance costs plus a reasonable return thereon by collecting tolls, fees, rentals or other charges from facility users. Under this project, the proponent who owns the assets of the facility may assign its operation and maintenance to a facility operator. The divestiture or disposition of the asset or facility shall be subject to relevant rules of the Commission on Audit.
5. Build-Transfer-and-Operate (BTO) - A contractual arrangement whereby the City contracts out the construction of an infrastructure facility to a PSP such that the contractor builds the facility on a turnkey basis, assuming cost overruns, delays, and specified performance risks. Once the facility is commissioned satisfactorily, title is transferred to the City. The PSP, however, operates the facility on behalf of the City under an agreement.

6. Contract-Add-and-Operate (CAO) - A contractual arrangement whereby the PSP adds to an existing infrastructure facility which it is renting from the City and operates the expanded project over an agreed franchise period. There may or may not be a transfer arrangement with regard to the added facility provided by the PSP.
7. Develop-Operate-and-Transfer (DOT) - A contractual arrangement whereby favourable conditions external to a new infrastructure project to be built by a PSP are integrated into the arrangement by giving that entity the right to develop adjoining property, and thus, enjoy some of the benefits the investment creates, such as higher property or rent values.
8. Rehabilitate-Operate-and-Transfer (ROT) - A contractual arrangement whereby an existing facility is turned over to the PSP to refurbish, operate and maintain for a franchise period, at the expiry of which the legal title to the facility is turned over to the City.
9. Rehabilitate-Own-and-Operate (ROO) - A contractual arrangement whereby an existing facility is turned over to the PSP to refurbish and operate, with no time limitation imposed on ownership. As long as the operator is not in violation of its franchise, it can continue to operate the facility in perpetuity.
10. City - Refers to the Quezon City Government.
11. Competitive Challenge or Swiss Challenge - An alternative selection process where in third parties or challengers shall be invited to submit comparative proposals to an unsolicited proposal. Accordingly, the PSP who submitted the unsolicited proposal, or the original proponent, is accorded the right to match any superior offers given by a comparative PSP.
12. Competitive Selection or Bidding or Open Competition - Refers to a method of selection or procurement initiated and solicited by the City, based on a transparent criteria, which is open to participation by any interested party.
13. Concession - A contractual arrangement whereby the financing and construction of a new facility and/or rehabilitation of an existing facility is undertaken by the PSP after turnover thereof to it, and includes the operation, maintenance, management and improvement, if any, of the facility for a fixed term during which the PSP generally provides service directly to facility users and is allowed to charge and collect the approved tolls, fees, tariffs, rentals or charges from

them. The City may receive a concession or franchise fee during the term of the contract and/or other consideration for the transfer, operation or use of any facility. There may be a transfer of ownership of the asset or facility after the concession period has ended subject to rules of the Commission on Audit.

14. Corporatization - Refers to transformation of a public entity or quasi-municipal corporation established by the City into one that has the structure and attributes of private corporation, such as board of directors, officers, and shareholders, and having it registered with the Securities and Exchange Commission as a stock corporation. The process involves the establishment of a distinct legal identity for the company under which the City's role is clearly identified as owner; segregation of the company's assets, finances, and operations from other City operations; and development of a commercial orientation and managerial independence while remaining accountable to the government or electorate.
15. Cost Sharing – Refers to the City portion of capital expenses associated with the establishment of an infrastructure development facility such as the provision of access infrastructure, right-of-way, and any partial financing of the project.
16. Credit Enhancement - Refers to direct and indirect support to a development facility by the PSP and/or City, the provision of which is contingent upon the occurrence of certain events and/or risks, as stipulated in the PPP contract. Credit enhancements are allocated to the party that is best able to manage and assume the consequences of the risk involved. Credit enhancements may include but are not limited to government guarantees on the performance or the obligation of the City under its contract with the PSP, subject to existing laws on indirect guarantees.
17. Indirect Guarantees - Refers to an agreement whereby the City assumes full or partial responsibility for or assists in maintaining the financial standing of the PSP or project company in order that the PSP/project company avoids defaulting on the project loans, subject to fulfilment of the PSP/project company of its undertakings and obligations under the PPP contract.
18. Development Projects - Projects normally financed and operated by the City, but which will now be wholly or partly financed, constructed and operated by the PSP; projects that

will advance and promote the general welfare; and other infrastructure and development projects as may be authorized by the City.

19. Direct City Equity - Refers to the subscription by the City of shares of stock or other securities convertible to shares of stock of the special purpose vehicle or single-purpose project company, whether such subscription will be paid by money or assets.
20. Direct City Guarantee - Refers to an agreement whereby the City guarantees to assume responsibility for the repayment of debt directly incurred by the PSP in implementing the project in case of a loan default.
21. Direct City Subsidy - Refers to an agreement whereby the City shall: (a) defray, pay or shoulder a portion of the PPP project cost or the expenses and costs in operating and maintaining the project; (b) condone or postpone any payments due from the PSP; (c) contribute any property or assets to the project; (d) waive or grant special rates on real property taxes on the project during the term of the contractual arrangement; and/or (e) waive charges or fees relative to the business permits or licenses that are to be obtained for the construction of the project, all without receiving payment or value from the PSP or operator for such payment, contribution or support.
22. Divestment or Disposition - Refers to the manner or scheme of taking away, depriving, withdrawing of title to a property owned by the City and vesting ownership thereof to a PSP.
23. Feasibility or Project Study (FS) - A study, full or prefeasibility study or business case prepared by the City in a competitive selection or a PSP when submitting an unsolicited proposal, containing or indicating a need analysis, affordability assessment, value for money assessment, preliminary risk assessment, stakeholder assessment, human resource assessment, bankability assessment, legal viability assessment, PPP mode selection, market testing if relevant, indicative transaction implementation plan, and draft PPP contract. The study may be supported by the results of the appropriate "willingness-and-ability-to-pay" survey.
24. Franchise - Refers to the right or privilege affected with public interest which is conferred upon a PSP, under such terms and conditions as the City may impose, in the interest of public welfare, security and safety.

25. IRR- Shall mean these Revised Implementing Rules and Regulations.
26. Joint Venture (JV) – A contractual arrangement whereby a PSP or a group of private sector entities on one hand, and the City on the other hand, contribute money/ capital, services, assets (including equipment, land, intellectual property or anything of value), or a combination of any or all of the foregoing. The City shall be a minority equity or shareholder while the PSP shall be majority equity or shareholder. Each party shall be entitled to dividends, income and revenues and will bear the corresponding losses and obligations in proportion to its share. Parties to a JV share risks to jointly undertake an investment activity in order to accomplish a specific, limited or special goal or purpose with the end view of facilitating private sector initiative in a particular industry or sector, and eventually transferring ownership of the investment activity to the PSP under competitive market conditions. It involves a community or pooling of interests in the performance of the service, function, business or activity, with each party having a right to direct and govern the policy in connection therewith, and with a view of sharing both profits and losses, subject to agreement by the parties.
27. Lease or Affermage- A contractual arrangement providing for operation, maintenance, and management services by the PSP, including working capital and/or improvements to an existing infrastructure or development facility leased by the PSP from the City for a fixed term. Under a lease, the PSP retains revenue collected from customers and makes a specified lease payment to the City. Under an affermage, the parties share revenue from customers wherein the PSP pays the contracting authority an affermage fee, which varies according to demand and customer tariffs, and retains the remaining revenue. The City may provide a purchase option at the end of the lease period subject to rules of the Commission on Audit.
28. Management Contract - A contractual arrangement involving the management or provision by the PSP of operation and maintenance or related services to an existing infrastructure or development facility owned or operated by the City. The project proponent may collect tolls/ fees/ rentals and charges which shall be turned over to the City and shall be compensated in the form of a fixed fee and/ or performance- based management or service fee during the contract term.

29. Negotiated Projects - Refer to instances where the desired project is the result of an unsolicited proposal from a PSP or, where the City has failed to identify an eligible private sector partner for a desired PPP activity when there is only one qualified bidder after subjecting the same to a competitive selection or bidding.
30. New Technology - Refers to having at least one of the following attributes:
- a. A recognized process, design, methodology or engineering concept which has demonstrated its ability to significantly reduce the implementation of construction costs, accelerate project execution, improve safety, enhance project performance, extend economic life, reduce costs of facility maintenance and operations, or reduce negative environmental impact or social/ economic disturbances or disruptions during either the project implementation/construction phase or the operation phase;
 - b. A process for which the project proponent or any member of the proponent joint venture/consortium possesses exclusive rights, either world-wide or regionally; or
 - c. A design, methodology or engineering concept for which the proponent or a member of the proponent consortium or association possesses intellectual property right.
31. Private Sector Proponent (PSP) - Refers to the private sector entity which shall have contractual responsibility for the project and which shall have an adequate track record in the concerned industry, as well as technical capability and financial base consisting of equity and firm commitments from reputable financial institutions, to provide, upon award, sufficient credit lines to cover the total estimated cost of the project to implement the said project.
32. Public-Private Partnerships (PPP) - PPP is a form of legally enforceable contract between the City and a PSP, requiring new investments from the PSP and transferring key risks to the PSP in which payments are made in exchange for performance, for the purpose of delivering a service provided or intended to be provided by the City. PPP shall also include dispositions of an asset, facility, project owned, or entity created by the City to a PSP; procurement of a service; assumption by a PSP of a proprietary function of the City; grant of a concession or franchise to a PSP by the City; or usage by the PSP of public

property owned or possessed by the City. Alternatively, a PPP is a legally enforceable contract where each party assumes specified functions, bears certain risks, provides contribution or renders some obligation, and earns benefits and revenues from the PPP arrangement.

33. PPP Contract - Whenever appropriate, the PPP Contract shall contain the Preambulatory Clauses or Whereas Clauses, Party Clause, Rules of Interpretation, Nature of the PPP, Term of the Project, Contract Objective, Performance Bonds, Key Performance Indicators, Risk Allocation, Rights, Payment to PSE or PSP, Tariff Scheme, Subsidy or Support Mechanism, Insurance Requirements, Delay Provisions, Force Majeure, Governmental Action, Government and Public Sector Entity (PSE) Warranties, PSP Warranties, Change in the Law, Regulatory Regime, Variations, Termination, Indemnification, Intellectual Property, Claims, Financial security, Dispute Resolution, Step-in Rights, Changes in the Composition of the PSP/Service Provider, Partnership Management, Compliance with all Laws, Personnel, Conditions Precedent, among others.
34. Reasonable Rate of Return (RROR) - Refers to the rate of return that a PSP shall be entitled to, as determined by the PPP Regulatory Authority taking into account, among others, the prevailing cost of capital (equity and borrowings) in the domestic and international markets, risks being assumed by the PSP and the level of City undertakings and contributions extended for the project.
35. Service Contract - A contractual arrangement whereby the PSP shall provide a particular service to the City involving the City's proprietary authority or to entities or corporation created by the City. The PSP shall be entitled to be paid a fee per unit of work done during the term of the contract.
36. Unsolicited Proposal - Refers to project proposals submitted by a PSP to the City to undertake a Development Projects without a formal solicitation issued by the City.
37. Value for Money (VfM) - Refers to the concept that over the whole-life of a project finance-PPP project, government's total expenditures (i.e., its payments to the private sector), adjusted for the risks that have been transferred to the private sector, will be less, on a Net Present Value (NPV) basis, than if the government will perform the services itself. VfM considers monetary and non-monetary factors such as: (i) risk transfer;

(ii) reduced whole life costs; (iii) speed of implementation; and (iv) quality and reliability of service.

38. Viability Gap Funding (VGF) - Refers to an explicit subsidy that is performance-driven (i.e., based on private party achieving measurable outputs) and targeted to socio economically disadvantaged users or groups of users; or any financial support in the form of grants or assistance, one time or deferred, to infrastructure projects undertaken through PPPs with a view to make them commercially viable.

SECTION 6. Rules of Interpretation – The provisions of this IRR shall be liberally interpreted to accomplish the policy and objectives set forth in Sections 2, 3 and 4 hereof.

SECTION 7. Authorities

- a. This IRR is being adopted pursuant to the City's constitutional and statutory authorities enumerated under Section 3 hereof; and when not inconsistent with the relevant laws aforementioned, shall govern the adoption and implementation of the PPP Modalities.
- b. In pursuing BOT and its Variants, the City shall comply with Republic Act No. 6957, as amended by Republic Act No. 7718 (BOT Law), and its Implementing Rules and Regulations.
- c. In entering into Management and Service Contracts, the City shall comply with Republic Act No. 9184 or the Government Procurement Reform Act (GPRA) and its Implementing Rules and Regulations.
- d. For Dispositions, Commission on Audit Circular No. 89-296 (January 27, 1989) shall govern.
- e. For Corporatization, the incorporation of the corporation must be done in accordance with the Corporation Code of the Philippines.
- f. For Joint Ventures, the Law on Partnerships of the Civil Code of the Philippines shall be applicable.
- g. For Leases and Affermages, the Law on Leases of the Civil Code of Philippines may be referred to.

RULE II PPP PROJECTS AND PPP MODALITIES

SECTION 8. PPP Projects

The City, through the appropriate and viable PPP mode, may undertake Development Projects, including but not limited to, power plants, highways, ports, airports, canals, dams, hydropower projects, water supply, sewerage, irrigation, telecommunications, railroad and railways, transport systems, land reclamation projects, industrial estates or townships, housing, government buildings, tourism projects, public markets, slaughterhouses, warehouses, solid waste management, information technology networks and database infrastructure, education and health facilities, social services, sewerage, drainage, dredging, mining, prisons, and hospitals. The City can also undertake PPPs for any of the devolved activities under Section 17 of the 1991 LGC.

The determination of the appropriateness and viability of the PPP mode shall be specified, explained and justified in the feasibility or project study weighing all the relevant value drivers and reasons for pursuing a PPP project.

Parties to PPP arrangement shall undertake an activity in order to accomplish either an integrated or multi-use arrangement or specific goal or purpose with the end view of serving the public good or generating revenues.

SECTION 9. List of Priority Projects - The City shall identify specific priority projects that may be undertaken under any of the PPP Modalities defined under Section 10 hereof.

The List of Priority Projects shall be consistent with the Philippine Development Plan (PDP).

Any updates to the lists of Priority Projects, shall be submitted to the PPP Center within five (5) days from approval of the Approving Body for information and for posting in the PPP Center website.

The City shall provide wide publicity of the List of Priority Projects proposed for implementation under the contractual arrangements or schemes as authorized under Ordinance SP-2336, S-2014 and this IRR to keep interested/concerned parties informed thereof. For this purpose, the City shall cause its List of Priority Projects to be published at least once every six (6) months in a national or local newspaper of general circulation. Said List should also be posted continuously in the Quezon City websites.

SECTION 10. PPP Modalities - In undertaking a specific PPP Project, the City may adopt and pursue any of the following sixteen (16) PPP Modalities and provide for other modalities not inconsistent with law:

- a. Build-and-Transfer (BT);
- b. Build-Lease-and- Transfer (BL T);
- c. Build-Operate-and-Transfer (BOT);
- d. Build-Own-and-Operate (BOO);

- e. Build-Transfer-and-Operate (BTO);
- f. Contract-Add-and-Operate (CAO);
- g. Develop-Operate-and-Transfer (DOT);
- h. Rehabilitate-Operate-and-Transfer (ROT);
- i. Rehabilitate-Own-and-Operate (ROO);
- j. Concession Arrangement;
- k. Joint Venture (JV);
- l. Lease or Affermage;
- m. Management Contract;
- n. Service Contract;
- o. Divestment or Disposition;
- p. Corporatization; and
- q. Any other modality akin to any of the above or features thereof which falls under the alternative definition of a PPP under Section 5(u) hereof.

SECTION 11. General Requirements - These are the general requirements for the City in entering into PPPs:

- A. Undertaking a PPP for a Development Project must be premised on any or all of the reasons and drivers mentioned in Section 4 hereof.
- B. The list of projects to be implemented by the City under any of the BOT variants shall be submitted for confirmation to the City Development Council for projects costing above Twenty up to Fifty Million Pesos; above Fifty Million up to Two Hundred Million Pesos to the Regional Development Councils; and those above Two Hundred Million Pesos to the Investment Coordination Committee of the National Economic Development Authority.
- C. Projects included in the List of Priority Projects shall not be eligible for unsolicited proposals under any of the BOT variants, unless involving a new concept or technology; provided, that for any of the other PPP Modalities, unsolicited proposals may be accepted even if the project is included in the List of Priority Projects or whether the same features a new concept or technology or not.
- D. The prohibition for extending Direct City Guarantee, Direct City Subsidy and Direct City Equity only applies to unsolicited proposals for BOT variants under Republic Act No. 6957, as amended by Republic Act No. 7718.
- E. For BOT variants that will be subjected to bidding, Concession Arrangements, Leases or Affermage, Management and Service Contracts, and Joint Ventures, the City may provide Direct

City Guarantee, Direct City Subsidy, Direct City Equity, or Viability Gap Funding; provided, that the City can use a portion of its general fund, its development fund comprising twenty percent (20%) of its annual share in the Internal Revenue Allotment, and/or its equitable share in the proceeds of the utilization and development of the national wealth found within its territory for this purpose; provided further, that any amount used for subsidy or equity for a PPP project shall be deemed for development purposes and for the direct benefits of the inhabitants pursuant to Sections 287 and 294 of the 1991 LGC respectively.

- F. For all PPP Modalities, the City may provide Credit Enhancements and Cost-Sharing schemes.
- G. Official Development Assistance (ODA) as defined in Republic Act No. 8182, otherwise known as the ODA Act of 1996, as amended by Republic Act No. 8555, may be availed of for PPP Projects where there is difficulty in sourcing funds; provided, that ODA financing shall not exceed fifty percent (50%) of the project cost, with the balance to be provided by the PSP.
- H. Any subsidy to the constituents that will be extended by the City will be targeted transparent and efficiently administered.
- I. Each PPP Modality adopted for a specific PPP project must specifically provide and adopt a tariff-mechanism such as but not limited to cash-needs, price cap, revenue cap, rate of return, hybrid of the foregoing, or any other appropriate scheme.
- J. For negotiated contracts for BOT variants for public utility projects which are monopolies, the rate of return on rate base shall be determined by existing laws, which in no case shall exceed twelve per centum [12%].
- K. In case of a project requiring a franchise or license to operate, the winning PSP shall automatically be granted by the City the franchise or license or permit to operate and maintain the facility, including the collection of tolls, fees, rentals, and other charges in accordance with the schedules stipulated in the approved PPP contract. The original franchise period as stipulated in the contract agreement may be extended, as may be authorized by the City, provided that the total franchise period shall not exceed (50) years.
- L. The City shall have the option to form or allow the formation of a special purpose vehicle or single-purpose project company to

implement the PPP project as may be appropriate under the chosen PPP modality.

- M. In participating in PPPs, the City may, subject to Sections 16, 17, 18, 19 and 20 of the 1991 LGC, exercise police power, perform developed powers, power to apply and generate resources, expropriate and reclassify and enact or integrate zoning ordinances.
- N. The City prescribe and impose Procurement Ethics to be followed by the City and all bidders based on the principles of honesty, integrity, probity, diligence, fairness, trust, respect and consistency for all PSPs and bidders.
- O. In a JV or appropriate modality, the co-venturers or parties to a JV shall contribute money, capital, services, personnel, assets including equipment, land intellectual property or anything of value, or a combination of any or all of the foregoing to the JV arrangement. The contribution of the City shall be subject to third party independent valuation. Further:
 - a. The City may allocate a portion of its Internal Revenue Allotment, development fund, regular funds, proceeds from the utilization and development of its national wealth, Special Education Fund when the JV project is education-related, Calamity Fund when the JV project is calamity- or reconstruction-related, and special funds, if appropriate, as its contribution or share in the JV activity.
 - b. The City may contract a loan, avail of Official Development Assistance, secure grants, issue bonds, debentures, securities, collaterals, and notes the proceeds of which can be earmarked for the JV activity.
 - c. On the part of the City, in addition to the foregoing contributions it may extend goodwill, grant a franchise, concession, usufruct, right-of-way, equity, subsidy or guarantee, provide cost-sharing and credit enhancement mechanisms, exercise police power, give tax incentives or tax holidays, perform devolved powers, expropriate and reclassify and enact or integrate zoning ordinances.
 - d. The City shall be a minority equity or shareholder while the PSP shall be majority equity or shareholder, except in the case where fifty percent (50%) of the outstanding capital stock or contribution is owned or made by the City.

- e. Subject to the terms of the competitive selection process and agreement of the parties, the City may be entitled to a share greater than its contribution or equity.
- f. Each party shall be entitled to dividends, profits, income and revenues and will bear the corresponding risks, losses and obligations in proportion to its share, unless the parties agree that the City will have a greater share in the dividends, profits, income and revenues.
- g. For as long as the City is involved in the JV undertaking, the PSP shall not sell/transfer its interest in the JV Company without the express written consent of the City.
- h. The share or equity of the City in the JV arrangement may be advanced, in full or in part, by the PSP where the PSP shall be paid from the future revenues due the City either by set-off or actual payment.
- i. The JV activity may, subject to the terms of the competitive selection process, include the divestment, disposition or transfer of ownership of the JV activity, equity, asset or project to the PSP or JV partner. The divestment or disposition may take place at the end of the JV period or before the term ends.
- j. JV Agreements entered into by the City with the PSP should be clear in its intent to undertake a specific activity that is responsive to national and local development goals and objectives.
- k. For JVs involving government assets or properties, the JV contract/agreement may be terminated/rescinded if the PSP fails to deliver or perform any major obligation/s prescribed in the JV contract/agreement, e.g., construction of the proposed building/s within the period specified in the JV contract/agreement. In such cases, the Quezon City Government may likewise forfeit the performance security of the private sector partner.
- l. Requirements/Conditions for JV Proposals. JV proposals shall comply with the following requirements/ conditions:
 - a. The JV activity is within the mandate and charter of the City;

- b. The JV activity is responsive in meeting national and local development goals and objectives; The JV proposal clearly describes the proposed investment, including its total cost, activities, objectives, sources of funding, extent and nature of the proposed participation of the City and the relevant terms and conditions;
 - c. The JV proposal establishes all the components in determining the over-all feasibility of the JV proposal which include, among others, the technical, financial, economic, and legal aspects.
- m. Approval of the JV Agreement. The PPP-SC shall be responsible for ensuring the consistency of the tender/bid parameters and the draft JV agreement. The Mayor shall approve the draft JV Agreement.
- n. Deviations and Amendments to the JV Agreement. The City shall not proceed with the awarding and signing of the contract if there are material deviations from the parameters, terms and conditions set forth in the proposal/tender documents that tend to increase the financial exposure, liabilities and risks of government or any other factors that would cause disadvantage to government and any deviation that will cause prejudice to losing PSPs. The PPP-SC shall be responsible for compliance with this policy. Violation of this provision shall render the award and/or the signed JV Agreement invalid.
- P. Procurement made by the City using public/city funds shall be subject to the GPRA and its Revised Implementing Rules and Regulations. Procurement made by the PSP using private funds shall not be covered by said statute.
- Q. The revenues, funds, expenditures and contributions of the City shall be subject to the audit examination by the Commission on Audit (COA). Revenues, funds, expenditures and contributions of the PSP shall be subject to audit by a private auditing firm.
- R. Any subsidy, guarantee, equity or contingent liability assumed or given by the City must be reflected, disclosed and recognized in the annual appropriations of the City.

SECTION 12. Disclosure of Relations – All PSP’s and bidders shall submit a sworn affidavit of the bidder that he or she or any officer of their corporation is not related to the Head of the City by consanguinity or affinity up

to the third civil degree. Failure to comply with the aforementioned provision shall be a ground for the automatic disqualification.

On the part of the City, this provision shall also apply to any of its officers or employees having direct access to information that may substantially affect the result of the bidding, such as, but not limited to, the members of the PPP Selection Committee, members PPP Regulatory Authority and PPP secretariat.

On the part of the PSP and/or bidder, this provision shall apply to the following persons:

- a. If the PSP or bidder is an individual or a sole proprietorship, to the bidder himself;
- b. If the PSP or bidder is a partnership, to all its officers and members;
- c. If the PSP or bidder is a corporation, to all its officers, directors, and controlling stockholders; and
- d. If the PSP or bidder is a joint venture, the provisions of items (a), (b) or (c) of this Section shall correspondingly apply to each of the members of the said joint venture, as may be appropriate.

SECTION 13. Prohibited Acts - It shall be unlawful for any public official to unduly influence or exert undue pressure on any member of the PPP Selection Committee or any officer or employee of the City to take a particular action which favors, or tends to favor a particular bidder.

When any of the foregoing acts is done in collusion with private individuals, the private individuals shall likewise be liable for the offense.

It shall be unlawful for any private individuals to commit any of the following acts, and any public officer who conspires with them to wit:

- a. A PSP or bidder, by himself or in connivance with others, employs schemes which tend to restrain the natural rivalry of the parties or operates to stifle or suppress competition and thus produce a result disadvantageous to the public;
- b. Submitting eligibility requirements of whatever kind and nature that contain false information or falsified documents calculated to influence the outcome of the eligibility screening process.
- c. Submitting Documents of whatever kind and nature that contain false information or falsified documents or conceal such information in the

Bidding Documents, in order to influence the outcome of the public bidding.

SECTION 14. Government-to-Government Joint PPP Undertakings -

The City by mutual agreement in a Government-to-Government arrangement with other local governments, national government agencies, government-owned and controlled corporations, government instrumentalities and government corporate entities, may implement PPP Projects for projects located within the City's territory or those projects that will benefit the City and its community even if the project site is outside the City's territory; provided, that the collaborating or partner Quezon City Government jointly undertakes with the City the selection of the PSP using the appropriate PPP Modality.

RULE III

Public-Private Partnership (PPP) - Selection Committee

SECTION 15. Composition – There is hereby created a PPP Selection Committee (PPP-SC) for purposes of selecting a PSP for a specific PPP Project. The PPP-SC shall be composed of the following:

- Chairperson - The Mayor or the City Administrator if so designated by the Mayor;
- Secretary - City Legal Officer;
- Member - City Treasurer;
- Member - City Planning and Development Officer;
- Member - Majority Floor Leader; and
- Member - Two (2) representatives from and chosen by the accredited civil society groups, people's and non-governmental organizations who are members of the City Development Council.

The PPP-SC with the approval of the City Mayor, may invite provisional non-voting members from the national government agencies, regulatory agencies, National Economic Development Authority, Department of the Interior and Local Government, and the private sector to observe in the proceedings of the PPP-SC; and form a support staff composed of employees and staff of the City.

Section 16. Functions and Responsibilities - The PPP-SC shall be responsible for all aspects of the pre-selection and selection process, including, among others, the preparation of the Feasibility or Project Study and selection/tender documents; determination of the minimum designs,

performance standards/ specifications, economic parameters and reasonable rate of return or tariff-setting mechanism appropriate to the PPP Modality; drafting or evaluation of the PPP contract; publication of the invitation to apply for eligibility and submission of proposals or comparative proposals; defining the eligibility requirements, appropriate form and amount of proposal securities, and schedules of the selection and challenge processes; prequalification of prospective PSPs, bidders or challengers; conduct of pre-selection conferences and issuance of supplemental notices; interpretation of the rules regarding the selection process; conduct of the selection or challenge process; evaluation of the legal, financial and technical aspects of the proposals; resolution of disputes between PSPs and challengers; defining the appeals mechanisms; and recommendation for the acceptance of the proposal and/or for the award of the contract.

Section 17. Secretariat

A. Composition - The PPP Selection Committee Secretariat shall be composed of the following members:

1. Secretary General – The Legal Officer of the Office of the City Mayor (or Any Division Chief or Department Head who must be a member of the Integrated Bar of the Philippines (IBP) in good standing);
2. Two (2) members who must have at least a plantilla position with the City Government duly appointed by the City Mayor.

B. Functions and Responsibilities - PPP Selection Committee Secretariat shall have the following functions and responsibilities:

1. Provide administrative support to the PPP Selection Committee;
2. Organize and make the necessary arrangements for the PPP Selection Committee meetings;
3. Attend all PPP Selection Committee meetings and prepare minutes thereof;
4. Keep all records of meetings and decisions made by the PPP Selection Committee; and
5. Perform such other functions as may be provided by the PPP Selection Committee.

Section 18. Committee Meetings and Quorum - The PPP Selection Committee shall meet at least once every quarter or as often as necessary. A simple majority shall constitute a quorum. Decisions by the PPP Selection Committee shall be by consensus whenever possible; otherwise, the simple

majority will suffice. The Chairperson shall be allowed to vote only for the purpose of breaking a tie.

All decisions of the PPP Selection Committee shall be in the form of a resolution. The PPP Selection Committee Secretariat shall be responsible for the framing of the resolutions, which shall be numbered consecutively every fiscal year indicating the number of the resolution and the year the resolution was passed.

The chairperson may designate any member to preside at meetings, in his/her absence.

RULE IV BID/TENDER DOCUMENTS

SECTION 19. Tender Documents - The PPP-SC shall prepare the tender documents, which shall include the following:

A. "Instructions to bidder". The instructions to bidders which establish the rules of the bidding shall be clear, comprehensive and fair to all bidders and shall, as far as necessary and practicable, include the following information:

1. General description and objectives of the project, including a statement that the project shall be proposed under Ordinance SP-2336, S-2014, and this IRR;
2. Contractual arrangement under which the project shall be undertaken;
3. Bid submission procedures and requirements, which shall include information on the manner of bid submission, the number of copies of bid proposal to be submitted, where the bids are to be submitted, the deadline for the submission of bids, permissible mode of transmission of bid proposals, etc.;
4. Bid security and bid security validity period;
5. Method and criteria for the evaluation of the technical component of the bids;
6. Parameters and criteria for evaluation of financial component of the bids;

Any one or more of the following criteria may be used in the evaluation of the financial component of the bid for determining the most advantageous bid for the Government;

- a. Lowest proposed toll, fee, rental or charge at the start of project operation, if a pre-agreed parametric tariff adjustment formula is prescribed in the bid document;
7. Minimum amount of equity as prescribed by the Approving Body or the PPP-SC, as the case may be;
8. Formula and appropriate indices to be used in the adjustments of tolls/fees/rentals/charges, when applicable. Said formula shall take into account the reasonableness of the same to users of the project/facility under bidding;
9. Requirements of concerned regulatory bodies, such as, but not limited to, the Department of Environment and Natural Resources (DENR) for the issuance of an Environmental Compliance Certificate (ECC), National Water Resources Board (NWRB) for the issuance of the Water Permit, the Philippine Contractors Accreditation Board (PCAB) for the registration requirements of Contractors, and, the Toll Regulatory Board (TRB) for the review of toll rates and adjustment formula;
10. Requirements and timelines/milestones of the City in granting of franchise, if applicable;
11. Current rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
12. Revenue sharing arrangements, if any;
13. Expected commissioning date; and
14. Nationality and ownership requirements as required by law.

B. "Minimum Design, Performance Standards/ Specifications, and Economic Parameters" Minimum design and performance standards/specifications, including appropriate environmental standards as prescribed by the DENR, shall be clearly defined and shall refer more to the desired quantity and quality of the outputs of the facility and should state that non-conformity with any of these minimum requirements shall render the bids as non-responsive. Likewise, for the purpose of evaluating bids, the following economic parameters, among others, shall be prescribed:

1. Discount rate, foreign exchange rate and inflation factor as prescribed by the Approving Body or the PPP-SC as the case may be, if applicable;

2. Maximum period of project Construction;
3. Fixed term for project operation and collection of the proposed tolls/fees/rentals/charges, if applicable;
4. Formula and price indices to be used in adjustments to tolls/fees/rentals/charges, if applicable;
5. Minimum period of repayment under the scheme

C. PPP Contract

1. The PPP Contract shall be signed by the Mayor on behalf of the City with the prior authorization or ratification by the Sangguniang Panlungsod, and the duly authorized representative of the PSP.
2. The direct and ultimate beneficiary of any PPP Contract shall be the constituents of the City.
3. The principal PPP Contract shall describe the PPP Project, the rights, functions, obligations and responsibilities of and risks assumed by each of the contracting party, dispute mechanisms and all other provisions enumerated under Section 5 (v) hereof.
4. The other ancillary contracts may include insurance contracts; loan agreements; bonds; guarantee arrangements; equity arrangements; operations and maintenance contracts; and engineering, procurement and construction (EPC) contracts.

“PPP Contract” reflecting the contractual arrangement under which the project shall be undertaken, and the respective undertakings of the contracting parties.

The draft contract should clearly define the basic and legal relationship between the parties and their rights and responsibilities including the specific Government Undertakings to be provided by the City relative to the project. The draft contract shall have the following mandatory terms or conditions:

1. Specific contractual arrangement, term, and scope of work;
2. Project technical specifications and system features;
3. Implementation milestones including those for securing other approvals, project completion date;

4. Cost recovery scheme via proposed tolls, fees, rentals and charges, as the case may be;
 5. Liquidated damages
 6. Performance and warranty bonds
 7. Minimum insurance coverage as may be required for the project, such as Contractor's all risk, motor vehicle, workmen's compensation, third party liability, or comprehensive general liability insurance;
 8. Acceptance tests and procedures;
 9. Warranty period and procedures (after transfer);
 10. Grounds for and effects of contract termination including modes for setting disputes;
 11. The manner and procedures for the resolution of warranty against corruption, and
 12. Compliance with all other applicable laws, rules, and regulations.
- D. "Bid Form" reflecting the required information to properly evaluate the proposal;
- E. Forms of bid and performance securities;
- F. Requirements and timelines/milestones of concerned Agencies in granting of franchise, if applicable; and
- G. Other documents as may be deemed necessary by the City.

RULE V
QUALIFICATION OF BIDDERS/PRE-QUALIFICATION PROCESS

SECTION 20. Who May Participate. - Any individual, partnership, corporation or firm, whether local or foreign, including joint venture or consortia of local, foreign or local and foreign firms, subject to the limits herein set, may participate or apply for pre or simultaneous qualification for projects covered under the provisions of the Code and this IRR.

Section 21. Publication of Invitation to Pre-qualify and Bid. - The PPP-SC shall upon the approval of the priority projects ready for implementation under the provisions of these IRR, forthwith cause to be published, once every week for three (3) consecutive weeks, in at least two (2)

newspaper of general circulation and in at least one (1) local newspaper of general circulation in the City, a notice inviting all prospective infrastructure or development project proponents to pre-qualify and bid for the projects so approved. Likewise, the PPP-SC shall issue official notification of the same to project proponents registered with them.

The published Invitation to Pre-qualify and Bid shall contain information, among others, whether the contractor to be employed to undertake the construction works needs to be pre-identified for pre-qualification purposes or not.

Section 22. Period to Prepare Pre-qualification Documents. - The City shall allow prospective bidders at least thirty (30) calendar days from the last date of publication of the Invitation to Pre-qualify and Bid to prepare their respective pre-qualification documents. For projects costing at least P300 million, the period of preparation shall at least be forty-five (45) calendar days from the last date of publication of the Invitation to Pre-qualify and Bid. In any event, the deadline for submission of pre-qualification statements shall be indicated in the published Invitation to Pre-qualify and Bid.

Section 23. Pre-qualification Requirements. - To pre-qualify, a project proponent must comply with the following requirements:

A. Legal Requirements:

1. For projects to be implemented under the BOT scheme whose operations require a public utility franchise, the project proponent and the facility operator must be a Filipino or, if a corporation, must be duly registered with the Securities and Exchange Commission (SEC) and owned up to at least sixty percent (60%) by Filipinos.
2. For projects to be implemented through a scheme other than the BOT and requiring a public utility franchise, the facility operator must be a Filipino or, if a corporation, must be duly registered with the Securities and Exchange Commission (SEC) and owned up to at least sixty percent (60%) by Filipinos.

Consistent with existing laws, the proponent may be the operator but it may be allowed to enter into a management contract with another entity, who may be 100% foreign owned, for the day to day operation of the facility, provided that the proponent will assume all attendant liabilities of an operator.

3. In case the project proponent is a joint venture or consortium, the members or participants shall submit a sworn statement undertaking that if awarded the contract, they shall bind themselves to be jointly severally and solidarily liable for the obligations of the project proponent under the contract. However, if members of the joint venture or consortium organize themselves as a corporation registered under Philippine laws, the liabilities of such members under the contract shall be in accordance with said laws.
4. For projects to be operated by the project proponent itself or owned by the proponent but operated through a facility operator where operation of the facility does not require a public utility franchise, the project proponent or the facility operator may be Filipino or foreign-owned.
5. If the contractor to be engaged by the project proponent to undertake the construction works of the project under bidding needs to be pre-identified as prescribed in the published Invitation to Pre-qualify and Bid and is a Filipino, it must be duly licensed and accredited by the Philippine Contractors Accreditation Board (PCAB). However, if the contractor is a foreigner, PCAB registration will not be required at pre-qualification stage, rather it will be one of the contract milestones.

B. Experience or Track Record: The proponent-applicant must possess adequate experience

Firm Experience: By itself or through the member-firms in case of a joint venture/consortium or through a contractor(s) which the project proponent may have engaged for the project, the project proponent and/or its contractor(s) must have successfully undertaken a project(s) similar or related to the subject infrastructure/development project to be bid. The individual firms and/or their contractor(s) may individually specialize on any or several phases of the project(s). A joint venture/consortium proponent shall be evaluated based on the individual or collective experience of the member-firms of the joint venture/consortium and of the contractor(s) that it has engaged for the project.

For purposes of the above, joint ventures/consortia shall submit as part of its pre-qualification statement a business plan which shall, among others, identify its members and its contractor(s), if the experience of its

contractor(s) are necessary for the determination of the capacity of the joint venture/consortium to undertake the project and the description of the respective roles said members and contractors, if necessary, shall play or undertake in the project. If undecided on a specific contractor, the proponent may submit a short list of contractors from among which it will select the final contractor. Short listed contractors are required to submit a statement indicating willingness to participate in the project and capacity to undertake the requirements of the project. The business plan shall disclose which of the members of the joint venture/consortium shall be the lead member the financing arm, and/or facility operator(s), and the contractor(s) if required to be pre-identified as prescribed in the published Invitation to Pre-qualify and Bid or if the qualifications/experience of their contractor(s) are necessary for the determination of the capacity of the joint venture/consortium to undertake the project.

Key Personnel Experience: The key personnel of the proponent and/or its contractor(s) must have sufficient experience in the relevant aspect of schemes similar or related to the subject project, as specified by the city.

Financial Capability: The project proponent must have adequate capability to sustain the financing requirements for the detailed engineering design, construction and/or operation and maintenance phases of the project, as the case may be. For purposes of pre-qualification, this capability shall be measured in terms of:

1. proof of the ability of the project proponent and/or the consortium to provide a minimum amount of equity to the project measured in terms of the net worth of the company or in the case of joint ventures or consortia the combined net worth of members or a set-aside deposit equivalent to the minimum equity required, and
2. a letter testimonial from reputable banks attesting that the project proponent and/or members of the consortium are banking with them, and that they are in good financial standing. The City shall determine on a project-to-project basis, and before pre-qualification, the minimum amount of equity needed. In addition, the city will inform the proponents of the minimum debt-equity ratio required by the monetary authority for projects to be financed by foreign loans.

The PPP-SC shall complete the evaluation of the pre-qualification documents of the proponents within thirty (30) calendar days from submission of complete required documents.

SECTION 24. Pre-qualified and Disqualified Proponents. - After undertaking the above process, the PPP-SC shall mark the pre-qualification documents of each prospective proponent as either "Pre-qualified" or "Disqualified", as the case may be, countersigned by the Chairman, for review and approval by the PPP-SC. Accordingly, the PPP-SC shall duly inform the prospective proponents who have been pre-qualified within seven (7) calendar days after approval thereof. Disqualified proponents shall likewise be informed stating therein the grounds for their disqualification. They may move for reconsideration within ten (10) calendar days from receipt of the notice of disqualification with the PPP-SC. In case of adverse resolution, appeal to the Office of the City Mayor may be filed within ten (10) days from receipt thereof.

The bidding process will be suspended while the appeal is being evaluated. The decision of the Office of the City Mayor or his authorized representative on the appeal shall be final and immediately executory.

SECTION 25. Simultaneous Qualification. - In the exigency of service, the PPP-SC may opt to do a simultaneous qualification instead of a pre-qualification of proponents. In case of simultaneous qualification, the publication of the invitation, shall be for the submission of qualification requirements and bid proposals. The bidders shall be asked to submit their proposal in three envelopes, the first being the qualification documents corresponding to the requirements so stated in Section 23 herein, the second the technical proposal and the third the financial proposal. The requirements for bid submission are covered under Rule 7 of this IRR. The period for the preparation of the qualification documents shall be subsumed under the time allotted for bid preparation.

RULE VI

PPP SELECTION PROCESS

SECTION 26. PPP Procedures - The following procedures shall apply:

- a. For BOT variants, the City must comply with the procedure set forth in Republic Act No. 6957, as amended by Republic Act No. 7718, and its Implementing Rules and Regulations.
- b. For Management and Service Contracts, the City shall comply with Republic Act No. 9184 or the Government Procurement Reform Act and its Implementing Rules and Regulations.

- c. For Concessions, Joint Ventures, and Leases or Affermage, the procedures specified herein shall govern.
- d. For Divestment or Disposition of a property, Commission on Audit Circular No. 89-296 (January 27, 1989) shall be applicable.
- e. For the Divestiture of a subsidiary or corporation incorporated by the City under Corporatization, the sale may be pursued via a public offering or through a public auction or other relevant schemes under Commission on Audit Circular No. 89-296 (January 27, 1989).
- f. If the City opts to select a PSP using either Competitive Selection or Competitive Challenge, the City in the Competitive Selection and the PSP in the Competitive Challenge approach must prepare and submit a Feasibility or Project Study. The costs of preparing the Feasibility or Project Study may be reimbursed by the winning PSP to the City under the Competitive Selection mode.
- g. All recommendations of the PPP Selection Committee shall be submitted to the Mayor for consideration and approval.
- h. All PPP contracts must be signed by the Mayor with prior authorization by the Sangguniang Panlungsod.
- i. During the consideration of the PPP Contract by the Sangguniang Panlungsod, a public consultation shall be conducted explaining the PPP Project, PPP Contract, accountability mechanisms built into the PPP arrangement, the benefits and costs of the PPP Project, among other relevant matters.
- j. After the signing of the PPP Contract by the Mayor, the PPP-SC shall issue the Notice of Award to the PSP.
- k. Jointly or at the Instance of the City or the PSP, the PPP Contract may be submitted for judicial, executive or administrative confirmation from the courts or appropriate government institution.

SECTION 27. The PPP selection process may either be through (a) competitive selection or (b) competitive challenge.

A. Competitive Selection. The Competitive Selection procedure shall consist of the following steps:

1. Advertisement – In line with principle of transparency and competitiveness, all invitations to Bid for contracts under competitive bidding shall be advertised by the PPP-SC in such manner and for such length of time as may be necessary under the circumstances, in order to

ensure the widest possible dissemination thereof, such as, but not limited to posting in the procuring entity's premises, in newspaper of general circulation and in the Quezon City website.

The invitation to bid shall contain, among others:

- a. A brief description of the subject matter of the proposal;
- b. A general statement on the criteria to be used by the PPP-SC for the eligibility check, the short listing of PSPs, the examination and evaluation of bids, and post-qualification.
- c. The date, time and place of the deadline for the submission and receipt of the eligibility requirements, the pre-bid conference if any, the submission and receipts of bids, and the opening of bids;
- d. Project cost
- e. The source of funds;
- f. The period of availability of the Bidding Documents, and the place where these may be secured;
- g. The contract duration; and
- h. Such other necessary information deemed relevant by the Procuring Entity

2. Issuance of Instructions and Tender Documents. - The PPP-SC shall make available the related bid documents to all pre-qualified bidders as soon as practicable to provide respective bidders ample time to examine the same and to prepare their respective bids prior to the date of opening of bids.

3. Conduct of Pre-bid Conferences – At least one pre-bid conference shall be conducted for each project. Subject to the approval of the PPP-SC, a subsequent pre-bid conference may also be conducted upon written request of any prospective PSPs.

For projects costing less than PhP 300 million, the pre-bid conference shall be conducted by the PPP-SC at least thirty (30) calendar days before the deadline for the submission of bids to clarify any provisions, requirements and/or terms and conditions of the bidding documents and/or any other matter that the prospective PSPs may raise. For projects costing PhP 300 million and above, the pre-bid conference shall be conducted no later than sixty

(60) calendar days before the submission of bids. Nothing stated at the pre-bid conference shall modify any provisions or terms and conditions of the bidding documents unless such is made as a written amendment thereto by the PPP-SC. Any amendments shall be issued by the PPP-SC to all bidders within a reasonable time to allow them to consider the same in the preparation of their bids and shall be duly acknowledged by each bidder prior to the submission of his bid and shall be so indicated in his bid. A summary of the pre-bid conference proceedings shall also be issued to all prospective PSPs by the PPP-SC. Attendance to the pre-bid conference by prospective PSPs shall not be mandatory.

Responsibility of Bidder. The prospective bidder shall be solely responsible for having taken all the necessary steps to carefully examine and acquaint himself with the requirements and terms and conditions of the bidding documents with respect to the cost, duration and execution/operation of the project as it affects the preparation and submission of his bids. The PPP-SC shall not assume any responsibility regarding erroneous interpretations or conclusions by the prospective interpretations or conclusions by the prospective bidder out of data furnished or indicated in the bidding documents.

Supplemental Notices. If a bidder is in doubt as to the meaning of any data or requirements or any part of the bidding documents, written request may be submitted to the PPP-SC for an interpretation of the same, allowing sufficient time for the PPP-SC to reply before the submission of his/her bid. Any substantive interpretation given by the PPP-SC shall be issued in the form of a Supplemental Notice, and furnished to all prospective bidders. The PPP-SC may also issue Supplemental Notices to all prospective bidders at any time for purposes of clarifying any provisions of the bidding documents provided that the same is issued within a reasonable period to allow all bidders to consider the same in the preparation of their bids. Receipt of all Supplemental Notices shall be duly acknowledged by each bidder prior to the submission of his bid and shall be so indicated in the bid.

4. **Submission, receipt and opening of bids shall be conducted pursuant to Rule VII of this IRR.**
5. **Posting of proposal securities (Section 30, Rule VII)**
6. **Evaluation of bids (Section 41, Rule VIII)**
7. **Post-qualification (Section 43, Rule VIII)**
8. **Award of contract (Rule X)**

B. Competitive Challenge - The Competitive Challenge process shall be divided into three (3) Stages, described as:

1. Stage One/ Unsolicited Proposal - The steps are:

- a. A PSP submits an unsolicited proposal accompanied by a Feasibility or Project Study to the PPP-SC for a projected PPP Project.

For an unsolicited proposal to be considered by the PPP-SC, the proponent has to submit a complete proposal, which shall include a cover letter, feasibility study which should indicate relevant assumptions, company profile, the draft contract, and other documents that are needed even if proprietary in nature . The cover letter shall indicate the basic information on the Unsolicited Proposal such as its expected output and outcome, implementation period, and general description of the new concept or technology. The feasibility study, draft contract, and other documents that are needed even if proprietary in nature shall be submitted in a sealed envelope.

- b. The PPP-SC shall make an initial evaluation of the proposal and determination of the eligibility of the PSP.

The PPP-SC shall acknowledge receipt of the proposal within seven (7) calendar days and advise the proponent whether the proposal is complete or incomplete within thirty (30) calendar days from submission thereof. If incomplete, the PPP-SC shall return to the proponent its submission indicating what information is lacking or necessary and the PPP-SC may entertain thereafter other same or similar project proposal.

- c. Upon the completion of the initial evaluation of the proposal. The PPP-SC shall: 1) appraise the merits of the project; 2) qualify the proponent based on the provisions hereof; 3) assess the appropriateness of the contractual arrangement and reasonableness of the risk allocation; 4) recommend a reasonable rate of return (ROR); and 5) inform the ICC and the PPP Center of its receipt of an Unsolicited Proposal.

The PPP-SC shall evaluate the proposal, qualify the proponent, and advise whether it accepts or rejects the proposal within one hundred twenty (120) calendar days upon receipt of the complete proposal. The City Mayor, upon recommendation of the PPP-SC, shall either issue a certificate of acceptance or non-acceptance of the proposal for purposes of detailed negotiations. The PPP-SC shall indicate in its letter of acceptance the confirmation of the proponent as “original proponent”. Non-issuance of certificate within thirty (30) days from the transmittal of the recommendation shall mean rejection thereof.

In case of acceptance, the PPP-SC shall endorse the unsolicited proposal and submit all pertinent documentation to the Approving Body as the case may be. At this point, the PPP-SC will

no longer entertain other similar proposals unless the parties are unable to agree during the period for negotiation specified below, or the original proponent is unable to comply with the parameters set by the approving body or, until the solicitation of comparative proposals has been completed.

- d. If there is more than one unsolicited proposal submitted for the same PPP Project, the City Mayor, upon recommendation of the PPP-SC, may:
 - i. reject all proposals and pursue competitive selection,
 - ii. accept the unsolicited proposal that is complete and provides the greater advantage and benefits to the community and revenues to the City.
 - iii. evaluate the proposals using a First In Time Approach.

Under this approach, the first complete proposal is evaluated and decided upon. The second complete proposal will only be entertained if the first one is rejected. Otherwise, the second complete proposal will be considered only if there is a failure in the negotiation of the first proposal or during the “invitation for comparative proposals” as defined below.

Under the First In Time Approach, the PPP-SC shall acknowledge the submission of other unsolicited proponent for the same or similar project concept, and advise the unsolicited proponent on existence of similar project concept and its rank/position based on date of submission of unsolicited proposals. If a contract is awarded to a proponent, the unopened envelope/s shall be returned to the respective proponents.

2. Stage Two/ Detailed Negotiations - The steps are:

- a. The Parties shall negotiate and agree on the terms and conditions of the PPP Project concerning its technical and financial aspects.

Negotiations shall focus on the project scope, implementation arrangements, Reasonable Rate of Return (RROR) and other parameters determined by the Approving Body as the case may be, and the terms and conditions of the draft contract for the Unsolicited Proposal, among others. The PPP-SC and the original proponent shall conclude negotiations within a period of

eighty (80) calendar days from receipt by the proponent of written notice from the PPP-SC to commence negotiation. Should there be irreconcilable differences during the negotiation period, the PPP-SC has the option to reject the proposal by advising the original proponent in writing stating the grounds for rejection and thereafter may accept a new unsolicited proposal or bid out the project as a solicited proposal, or undertake the project on its own. If negotiation is successful, the PPP-SC and the authorized signatory of the original proponent shall issue a signed certification that an agreement has been reached by both parties. Said certification shall also state that the PPP-SC shall commence the activities for the solicitation of comparative proposals.

- b. Once negotiations are successful, the Parties shall issue a joint certification stating that an agreement has been reached and specifying the eligibility of the PSP and the technical and financial aspects of the PPP Project as agreed upon.
- c. The issuance of the certification commences the activities for the solicitation for comparative proposals.

In the event that the Original Proponent has an exclusive franchise, right or concession, such as a power service contract, water rights, or mining contracts/rights vested, granted or awarded by the responsible national government agency, or ownership over real, personal or intellectual property, without which the JV project or activity cannot be undertaken without the participation or consent of the Original Proponent-Franchise Holder, subjecting the unsolicited proposal to challenge under Stage Three hereof need not be undertaken. In which case, the Competitive/Swiss Challenge process is deemed complete.

- d. However, should negotiations not result to an agreement acceptable to both parties, the PPP-SC shall have the option to reject the proposal by informing the PSP in writing stating the grounds for rejection and thereafter may accept a new proposal from other PSPs, decide to pursue the proposed activity through other PPP Modalities or subject the PPP Project to a Competitive Selection.

3. Stage Three/ Competitive or Swiss Challenge Proper -The steps are:

- a. The PPP-SC shall prepare the tender documents. The eligibility criteria used in determining the eligibility of the private sector entity shall be the same as those stated in the tender documents. Proprietary information shall, however, be respected and protected, and treated with confidentiality. As such, it shall not form part of the tender and related documents.

The qualification and tender documents shall be prepared along the lines specified under Rule IV. The draft contract as agreed upon by the PPP-SC and the original proponent and as approved by the PPP-SC, which shall be part of the tender documents, will be considered final and non-negotiable by the comparative proponents.

- b. The Mayor, upon favourable recommendation by the PPP-SC shall approve all tender documents including the draft contract before the publication of the invitation for comparative proposals.
- c. Within seven (7) calendar days upon issuance of the certification of a successful negotiation, the PPP-SC shall publish the invitation for comparative proposals and after receipt of the notification from the original proponent that the latter accepts all the terms and conditions. The invitation for comparative or competitive proposals should be published at least once every week for three (3) consecutive weeks in at least one (1) newspaper of general circulation. Said invitation should also be posted continuously in the website of the City, if available, within the period stated above. For the projects costing at least Php 500 million, the invitation may also be published at least once (1) in at least one (1) international publication. It shall indicate the time, which should not be earlier than the last date of publication, and place where tender/bidding documents could be obtained. It shall likewise explicitly specify a time of sixty (60) working days reckoned from the date of issuance of the tender/bidding documents upon which proposals shall be received. Beyond said deadline, no proposals shall be accepted. A pre-bid conference shall be conducted thirty (30) working days after the issuance of the tender/bidding documents.
- d. The PSP or Original Proponent shall post the proposal security at the date of the first day of the publication in the newspaper of general circulation stated in the preceding paragraph, of the invitation for comparative proposals in the amount and form stated in the tender documents.
- e. In the evaluation of proposals, the best offer shall be determined to include the original proposal of the PSP.

f. If the City thru the PPP-SC, determines that an offer made by a comparative PSP or challenger other than the negotiated terms with original proponent is superior or more advantageous to the City than the original proposal, the PSP who submitted the original proposal shall be given the right to match such superior or more advantageous offer. Should no matching offer be received within the stated period set by the PPP-SC, the PPP Project shall be awarded to the comparative PSP submitting the most advantageous proposal. If a matching offer is received within the prescribed period, the PPP Project shall be awarded to the original proponent. If no comparative proposal is received by the City, the PPP Project shall be immediately awarded to the original proponent.

Proposals shall be evaluated in three stages: Stage 1, qualification documents; Stage 2, the technical proposal. Only those bids which pass the first stage will be considered for the second stage and similarly, only those which pass the second stage will be considered for the third stage evaluation. The PPP-SC will return to the disqualified bidders the remaining envelopes unopened, together with a letter explaining why they were disqualified. The criteria for evaluation will follow the qualification of bidders and technical and financial proposals. The time frames shall likewise be followed.

g. In the event that the Original Proponent is not able to match the superior offer of the challenger, the winning challenger shall reimburse, within thirty (30) days from issuance of the notice of award, the original proponent the cost of preparing the project study, provided, that this reimbursement arrangement and the cost of preparing of the project study are expressly stated in the terms of reference for the competitive challenge, and that the PPP-SC has determined that the cost is reasonable.

RULE VII SUBMISSION, RECEIPT AND OPENING OF BIDS

SECTION 28. Requirements for Bid Submission. – Bidders shall be required to submit their bids on or before the deadline stipulated in the Instructions to Bidders. For pre-qualified bidders, their bids shall be submitted in two (2) separate sealed envelopes, the first being the technical proposal and the second the financial proposal. In case of simultaneous qualification, three envelopes shall be submitted. The first envelope shall be the qualification requirements, the second the technical proposal and the third the financial proposal. All envelopes shall bear the name of the bidder and project to be bid

out in capital letters and addressed to the PPP-SC. They shall be marked "Do Not Open Before (date and time of opening of bids)". The envelopes shall be appropriately labelled as Qualification Requirements, Technical Proposal and Financial Proposal.

Section 29. Qualification Requirements -The envelope for qualification of the bidder shall contain requirements as stated in Section 23 hereof.

Section 30. Technical Proposal – The technical proposal shall contain the following:

a) Operational feasibility of the project, which shall indicate the proposed organization, methods and procedures for the operation and maintenance of the project under bidding;

b) Technical soundness/preliminary engineering design, including proposed project timeline;

c) Preliminary environmental assessment, which shall indicate the probable adverse effects of the project on the environment and the corresponding mitigating measures to be adopted;

d) Project cost including operating and maintenance cost requirements and proposed financing plan (proposed equity contribution, debt, etc.);

e) Bid security in the form of cash, certified check, manager's check, letter of credit, or bank draft/guarantee issued by a reputable local/foreign bank, or a surety bond callable on demand issued by the Government Service Insurance System (GSIS) or an entity duly registered and recognized by the Office of the Insurance Commissioner and acceptable to the City, or any combination thereof payable to the City in accordance with the following schedules.

PROJECT COST (as estimated by the City or proposed by the Project Proponent)	REQUIRED BID SECURITY
less than Php 5.0 billion	2.0% of the Project Cost
At least Php 5.0 billion to less than Php 10.0 billion	1.5% of the Project Cost or PhP 100 million, whichever is higher
Php P10.0 B and more	1.0% of the Project Cost or PhP 150 million, whichever is higher

The City shall determine whether the bid security shall be issued by a local bank, an international bank, or both. In case the bid security issued by an international bank, said security has to be confirmed and validated by its local branch in the Philippines or by a bank that is duly registered and authorized by the BSP.

The posting of the bid security is for the purpose of guaranteeing that the proposed contract awardee shall enter into contract with the City within the time prescribed therefor. It shall serve as the guarantee that, after receipt of the notice of award, the winning bidder shall enter into contract with the City within the stipulated time and furnish the required performance security.

Bids and bid securities shall be valid for a period to be prescribed by the PPP-SC in the bidding documents but in no case beyond one hundred and eighty (180) calendar days from the date of opening of bids. The actual amount of bid security to be posted by the bidders will be fixed by the PPP-SC prior to bidding. Said actual amount shall not be less than the amount prescribed in the above schedule.

f) Other documents as may be required by the PPP-SC to support the bidder's technical proposal.

Section 31. Financial Proposal – the financial proposal shall contain the following, as the case may be.

- a) Proposed Project Cost, operation and maintenance cost, and all other related costs;
- b) Project financing scheme, which may include the amount of equity to be infused, debt to be obtained for the project, and sources of financing; and
- c) Financial bid corresponding to the parameters set by the City in accordance with Section 19.A (par. 6).

SECTION 32. Submission of Late Bids. - Bids submitted after the deadline for submission prescribed in the “Instructions to Bidders” shall be considered late and shall be returned unopened.

SECTION 33. Receipt and Opening of Bids - The proposal shall be received by the PPP-SC on such date, time and place specified in the invitation to bid. The deadlines for the receipt of the proposals shall be fixed by the PPP-SC, giving it sufficient time to complete the bidding process and giving the PSPs

sufficient time to study and prepare their proposals. The deadline shall also consider the urgency of the project involved. Bids submitted after the deadline shall not be accepted.

The PPP-SC shall publicly open all proposals at the time, date, and place specified in the bidding documents. The minutes of the bid opening shall be made available to the public upon written request and payment of a specified fee.

SECTION 34. Opening of the Envelope for Qualification of Bidder. - At the date and time stipulated in the Instructions to Bidders, the PPP-SC shall open the envelope and ascertain whether the same is complete in terms of the information required under Section 23 hereof. Such information shall be recorded at the time, including the names and addresses of required witnesses. All bidders or their representatives present at the opening of the first envelopes shall sign a register of the opening of the qualification envelope.

SECTION 35. Evaluation of Qualification Requirements. - The qualification documents will first be evaluated prior to the opening of the technical proposal. The City shall inform bidders whether they are qualified or disqualified, and for the latter the reasons for disqualification, within ten (10) calendar days from opening of the envelope of qualifications of bidders. Only qualified bidders shall be allowed to participate in the bid evaluation. Disqualified bidders shall be informed of the grounds of disqualification and their technical and financial proposals returned unopened.

SECTION 36. - Opening of the Envelope for the Technical Proposal. - At the date and time of bid opening, as stipulated in the "Instructions to Bidders", the PPP-SC shall open only the technical proposal and ascertain whether the same is complete in terms of the data/information required above and whether the same is accompanied by the required bid security in the prescribed form, amount and period of validity. Such information shall be recorded at the time, including the names and addresses of required witnesses. All bidders or their representatives present at the opening of the first envelopes shall sign a register of the bid opening.

SECTION 37. Rejection of Bids. - Incomplete information on any of the envelopes and/or non-compliance with the bid security prescribed in Section 30 (par. e) shall be a ground for automatic rejection of bids.

SECTION 38. Opening of the Envelope for the Financial Proposal. - Only those bidders whose technical proposal passed the evaluation criteria as prescribed hereof shall have their financial proposal opened for further evaluation. Those who failed the evaluation of the technical proposal shall not

be considered further and the PPP-SC shall return their financial proposals unopened together with the reasons for their disqualification from the bidding.

Once the bidders who have qualified for the evaluation of the financial proposal have been determined, the PPP-SC shall notify said bidders of the date, time and place of the opening of the envelopes for the financial proposal. The opening thereof shall follow the same procedures prescribed for the opening of the previous envelopes.

SECTION 39. Withdrawal and/or Modification of Bids. - Withdrawal and/or modification of bids may be allowed only upon written notice by the bidder to PPP-SC prior to the time and date set for the opening of bids (opening of first envelopes) as specified in the “Instructions to Bidders”. No bids shall be modified or withdrawn after the time prescribed to open bids. Bid modifications received after said period shall be considered late and will be returned unopened. Withdrawal of bids after the bid opening date shall cause the forfeiture of the bidder's bid security.

RULE VIII EVALUATION OF BIDS

SECTION 40. Eligibility Screening of Prospective PSPs – The eligibility requirements for PSPs shall provide for fair and equal access to all prospective PSPs. The prospective PSP shall certify under oath as to the correctness of the statements made, and the completeness and authenticity of the documents submitted.

The eligible PSPs shall then be evaluated using numerical ratings on the basis of short listing requirements for the Competitive Bidding concerned, within the period stated in the Invitation to Bid to determine the short list of PSPs who shall be allowed to submit their respective proposal.

SECTION 41. Evaluation of Bids- The evaluation of bids shall be undertaken in two (2) stages, in accordance with the procedures described below:

A. First Envelope Evaluation - The first envelope evaluation shall involve the assessment of the technical, operational, environmental and financing viability of the proposal as contained in the PSPs' first envelopes vis-à-vis the prescribed requirements and criteria/minimum standards and basic parameters prescribed in the bidding documents. Only those proposals that have been determined to have positively passed the first stage of evaluation shall be qualified and considered for the second stage of evaluation.

The PPP-SC shall evaluate the technical proposals of the PSPs in accordance with the following criteria:

- 1) Technical Soundness (Preliminary Engineering Design) - The basic engineering design of the project should conform to the minimum design and performance standards and specifications set by the PPP-SC as prescribed in the bidding documents. The engineering surveys, plans and estimates should be undertaken within +/- 20% of the final quantities. The Construction methods and schedules should also be presented and shown to be feasible or "doable".
- 2) Operational Feasibility - The proposed organization, methods, and procedures for operating and maintaining the completed facility must be well-defined, should conform to the prescribed performance standards, and should be shown to be workable. Where feasible, it should provide for the transfer of technology used in every phase of the project.
- 3) Environmental Standards - The proposed design and the technology of the project to be used must be in accordance with the environmental standards set forth by the Department of Environment and Natural Resources (DENR), as indicated in the bid documents. Any adverse effects on the environment as a consequence of the project as proposed by the prospective PSP must be properly identified, including the corresponding corrective/mitigating measures to be adopted.
- 4) Project Financing - The proposed financing plan should positively show that the same could adequately meet the Construction cost as well as the operating and maintenance costs requirements of the project. The PPP-SC shall assess the financing proposals of the bidders if the same matches and adequately meets the cost requirements of the project under bidding.

The PPP-SC shall complete the evaluation of the technical proposal within twenty (20) calendar days from the date the bids are opened.

B. The Second Envelope Evaluation. - The second envelope evaluation shall involve the assessment and comparison of the financial proposals of the bidders based on the parameters stated in Section 19.A (par. 6) hereof. The second stage evaluation shall be completed by the PPP-SC within fifteen (15) calendar days from the date the first stage evaluation shall have been completed.

SECTION 42. Right to Reject All Bids. - The PPP-SC reserves the right to reject any or all bids, waive any minor defects therein and accept the offer most advantageous to the City.

SECTION 43. Post-Qualification - The Lowest Calculated Bid/Highest Rated Bid shall undergo post-qualification in order to determine whether the bidder concerned complies with and is responsive to all the requirements and conditions as specified in the Bidding Documents.

Within three (3) calendar days from receipt by the PSPs of the notice from the PPP-SC that the bidder has the Lowest Calculated Bid or Highest Rated Bid, the bidder shall submit the following documentary requirements to the PPP-SC:

- a. Latest income and business tax returns;
- b. Other appropriate licenses and permits required by law and stated in the Bidding Documents; and
- c. Other documents as may be required by the PPP-SC.

Failure to submit the above requirements on time or a finding against the veracity of such shall be ground for the forfeiture of the bid security and disqualify the bidder for award.

RULE IX LIMITED NEGOTIATIONS

SECTION 44. Limited Negotiations - Where the PPP-SC has failed to identify an eligible PSP for a desired PPP activity when there is only one qualified bidder after subjecting the same to a competitive selection or bidding or where the desired PPP project is the subject of an unsolicited proposal from a PSP, Limited Negotiations may take place. The negotiations will cover all the technical and financial aspects of the PPP project or activity; provided, that the minimum designs, performance standards/ specifications and economic parameters stated in the Feasibility or Project Study and Terms of Reference for the Competitive Selection are complied with. The Mayor shall approve the terms of the Limited Negotiations prior to the award of the contract to the PSP.

RULE X AWARD AND SIGNING OF CONTRACT

SECTION 45. Award of Contract - Within three (3) calendar days from the date the financial evaluation shall have been completed, the PPP-SC will submit a detailed evaluation/assessment report on its decision regarding the

evaluation of the bids and explain in clear terms the basis of its recommendations.

Within three (3) calendar days from the submission by PPP-SC of the recommendation to award, the City Mayor shall decide on the award. The approval shall be manifested by signing and issuing the “Notice of Award” to the winning Project Proponent within five (5) calendar days from approval thereof.

All unsuccessful PSPs shall be informed in writing of the decision of the PPP-SC to award the project to the winning Project Proponent. Such decision shall be made available to the public when requested.

Section 46. The “Notice of Award”, which is issued by City Mayor, shall indicate, among others, that the winning Project Proponent must submit within twenty (20) calendar days from official receipt of the “Notice of Award” the following:

A. Prescribed Performance Security;

1. Performance Security for Construction Works – to guarantee the faithful performance by the Project Proponent of its obligations under the contract, including the prosecution of the Construction works related to the project, the Project Proponent shall post a performance guarantee in favor of the City concerned, within the period and in the form and amount stipulated in the Notice of Award. The City shall determine which form of performance security it will require which may be in cash, bank draft or guarantee confirmed by a local bank (in the case of foreign bidders bonded by a foreign bank), letter of credit issued by a reputable bank, surety bond callable on demand issued by the GSIS or by surety or insurance companies duly accredited by the office of the Insurance Commissioner, or a combination thereof, in accordance with the following schedules:
 - a. Cash, irrevocable letter of credit, bank draft – a minimum of two percent (2%) of the total Project Cost.
 - b. Bank Guarantee – a minimum of five percent (5%) of the total Project Cost.
 - c. Surety Bond – a minimum of ten percent (10%) of the total Project Cost. The performance guarantee shall be valid up to acceptance by the City of the facility.
2. Performance Security for Operations – For projects where the proponent or other third parties shall operate the project, the City

shall determine whether the Project Proponent will post a performance security for operations, simultaneously with the acceptance of the facility. The performance security for operations will be issued to guarantee the proper operation of the project in accordance with the operating parameters and specifications under the contract. The City shall determine the amount but the form shall be in accordance with the preceding section. This performance security for operations shall be valid ninety (90) calendar days after the turn-over of the facility, as contemplated in Section 65, or as may be provided in the contract whichever is longer.

- B. Proof of commitment of the required equity contribution, as specified by the PPP-SC:
 - 1. in the case where the PSP is a corporation - e.g., treasurer's affidavit attesting to actual paid-up capital, subscription agreement(s) between a shareholder(s) of the PSP and the PSP itself covering said equity contribution, or shareholders agreement between and amongst 2 or more shareholders of the Project Proponent undertaking to contribute/subscribe the required equity contribution; or
 - 2. in the case of a consortium - an undertaking of the members thereof to infuse the required equity contribution to the consortium.
- C. Proof of firm commitments from reputable financial institution to provide sufficient credit lines to cover the total estimated cost of the project;
- D. In the case of a consortium, the agreement indicating that the members are jointly and severally liable for the obligations of the PSP under the contract; or
- E. In case a special purpose company (SPC) is formed for purposes of undertaking the project, proof of registration in accordance with Philippine laws.
- F. Such other conditions imposed by the PPP-SC. Failure to submit the requirements within the prescribed twenty (20)-calendar day period will result in confiscation of the bid security. Within five (5) calendar days upon receipt of the foregoing requirements for award, the PPP-SC shall determine and notify the winning PSP of its compliance of all the conditions stated in the said notice.

SECTION 47. Public Dissemination of Bidding Results - (a) The PPP-SC shall post the notice of award and/or bidding results in the websites of PPP Center and Quezon City, within seven (7) calendar days from the issuance of Notice of Award.

SECTION 48. Schedules and Timelines - The City shall have the authority to adopt and prescribe the appropriate schedules and timelines for each PSP selection process: provided, that the periods are reasonable and will not undermine free competition, transparency and accountability.

**RULE XI
REGULATION AND CONTRACT MANAGEMENT**

SECTION 49. PPP Regulatory Authority's Mandate - The PPP Regulatory Authority (PPP-RA) created under this Code shall be tasked with performing contract management functions, such as partnership management (i.e., corporate governance, communication and information sharing, and dispute resolution), performance or service delivery management (i.e., risk management and performance management), and contract administration (i.e., variation management, contract maintenance and financial administration), for all PPP arrangements entered into by the City. Aside from these, the PPP-RA shall be responsible for setting and monitoring the tariff, and administering the subsidy pursuant to the PPP contract.

SECTION 50. Composition of the PPP Regulatory Authority -

A. The membership of the PPP-RA shall be composed of the following:

Chairperson - The Mayor or the City Administrator if so designated by the Mayor;

Vice-Chairperson - Vice-Mayor or representative from the Sangguniang Panlungsod designated by the Vice-Mayor;

Members -

1. Two (2) representatives of the Sanggunian belonging to two (2) distinct registered political parties to which the Mayor does not belong, to be chosen on the basis of proportional representation of all parties represented in the Sangguniang Panlungsod;
2. City Legal Officer;
3. City Treasurer;

4. City Planning and Development Officer; and
5. Two (2) representatives from and chosen by the accredited civil society groups, people's and non-governmental organizations who are members of the City Development Council. These representatives shall not be the same representatives in the PPP-SC.

B. For projects covered by government-to-government joint PPP undertakings, the collaborating or partner government entity shall have one (1) representative in the PPP- RA, provided that such representative shall only sit in meetings of the PPP-RA, or portions thereof, and have a vote only on matters directly affecting the PPP project covered by such joint PPP undertaking. For this purpose, government-to-government joint PPP undertakings means such mutual agreement entered into by the City with other local governments, national government agencies, government-owned and controlled corporations, government instrumentalities and government corporate entities, for the implementation of PPP projects that will benefit the City and its community even if the project site is outside the City's territory.

SECTION 51. Contract Manager - The PPP-RA may appoint a contract manager for a PPP project depending on the PPP contract value, complexity and associated risks. The contract manager shall have the necessary management skills and technical knowledge of the goods, services or works to be provided under the PPP contract. The PPP-RA shall determine the manner and source of payment for the contract manager's compensation, provided that if a regular employee of the City is appointed as contract manager, he/she shall not receive additional compensation for such appointment. The contract manager shall have a vote on matters directly affecting the PPP project that he/she is managing.

SECTION 52. Quorum - A quorum of the PPP-RA shall be composed of a simple majority of all voting members. The chairperson shall vote only in case of a tie.

SECTION 53. Advisers and Observers - The PPP-RA with the approval of the Mayor may invite third party experts to attend its meetings to act as advisers and observers. Such third party experts may represent national government agencies, regulatory agencies, the National Economic Development Authority, the PPP Center, the Department of Interior and Local Governments, private sector, non-governmental organizations and civic groups.

SECTION 54. Support Staff - The PPP-RA may form a support staff composed of employees and personnel of the City. The PPP-RA may also engage consultants hired pursuant to law.

SECTION 55. Contract Management Manual

- a. The City Legal Officer, City Treasurer and City Planning and Development Officer and one of the civil society representatives of the PPP-RA, acting as the PPP-RA Manual Committee (PPP-RA-MC), shall jointly prepare a contract management manual for each executed PPP contract, which shall serve as a guide to the City and its personnel in ensuring a consistent high quality contract monitoring process that is specific for such PPP contract.
- b. The contract management manual shall be submitted to the PPP-RA for approval within twenty-one (21) days from the execution of a PPP contract, provided that, for outstanding PPP contracts concluded prior to the effectivity of the Code, the contract management manual shall be submitted to the PPP-RA within one hundred twenty days (120) days from the effectivity of the Code and the provisions of the Code shall apply mutatis mutandis.
- c. The PPP-RA may accept, reject, or order the revision of the contract management at any time during the life of the PPP project, provided that any revision subsequent to the first acceptance of the contract management manual at the inception of the PPP project shall require written notice to the PSP and opportunity to be heard.
- d. If the contract management manual has not been approved by the PPP-RA within seven (7) days from its submission as provided in paragraph (b), the same shall be deemed issued and approved by the PPP-RA for all purposes.
- e. The PPP-RA shall evaluate each contract management manual quarterly, which shall be amended as may be necessary. Any amendment to the contract management manual shall be effective upon the approval of the PPP- RA.
- f. The PPP-RA, all throughout the life of the PPP Contract, shall present, make available and explain, before and after any material action is taken, all relevant information regarding the implementation of the PPP Contract, the submissions of the PSP and actions taken by the PPP-RA, to the City Development Council.

SECTION 56. Contents of the Contract Management Manual - Each contract management manual shall include the following information:

- a. a description of the PPP project and its history;
- b. a summary of the key terms of the PPP contract;
- c. roles and responsibilities of each member of the PPP-RA and other City personnel and contractors, as applicable, who are involved in the PPP project;
- d. roles and responsibilities of key personnel of the PSP;
- e. details of the post-award conference;
- f. partnership management procedures;
- g. performance or service delivery management;
- h. contract administration; and
- i. project closeout procedures.

SECTION 57. Post-Award Conference

- a. Immediately after the PPP contract is awarded, the PPP-RA Chairperson shall call a post-award conference to ensure that the City and PSP have a clear and mutual understanding of the terms and conditions of the PPP contract, and to determine the responsibilities of parties. Notice of the post-award conference shall be sent by the PPP-RA Chairperson at least five (5) working days before the scheduled date thereof.
- b. The post-award conference shall be attended by the members of the PPP-RA, such employees and contractors of the City who are involved in the management of the PPP contract, and key personnel of the PSP.
- c. The PPP-RA Chairperson shall preside at the post-award conference, and shall appoint a secretary of the conference from the City personnel present.
- d. The minutes of the conference shall be sent to each participant within five (5) days of the adjournment of the conference.

SECTION 58. Personnel and Training Requirements

- A. The contract management manual shall identify the City personnel involved in contract management, the specific roles and responsibilities of each, and the skills and technical knowledge required to perform their functions.
- B. Independent contractors may be engaged in the absence of the qualified City personnel, provided that, except in the case of contract managers engaged in accordance with Section 51, contractors may only be engaged for a period not exceeding three (3) years from the effective date of the PPP contract.

Such contractor shall:

- 1. have at least two (2) understudies; and
 - 2. provide a training program for City personnel in his field of specialization, with such training being done regularly during regular office hours.
- C. During the contract life, the City personnel shall undergo such continuous training on contract monitoring to ensure that the City is equipped to monitor reliably the PSP's performance over the entire life of the PPP contract.

SECTION 59. Partnership Management - Each contract management manual shall identify processes to ensure accountability and manage the relationship between the City and the PSP, and shall describe:

- a. each party's governance structure, including the overall system of institutional structures, operating rules, compliance mechanisms and accountability procedures;
- b. guidelines on communication and information sharing between the City and the PSP, including reporting requirements, frequency and purpose of regular meetings, record-keeping of all exchanges, and the acceptable modes of correspondence between them; and
- c. the process for resolving disputes between the parties, identifying, among others, the different levels of dispute resolution, offices and officials involved, timetable for resolving such disputes, and possible actions to compel a party to adequately comply with contractual terms.

SECTION 60. Performance or Service Delivery - The contract management manual shall identify measures to ensure that the services or goods provided by the PSP are in accordance with the standards and prices agreed in the PPP contract. Such measure shall include:

- A. an identification of risks under the PPP contract, the timetable for resolving such risks when they arise, contingency plans that ensure immediate resumption of services in the event of an interruption of service delivery by the PSP, and penalties for failing or refusing to resolve them, provided that a separate risk mitigation plan shall be developed and periodically reviewed and updated throughout the life of the contract for contracts with significant risks;
- B. clear and demonstrable key performance indicators that demonstrate evidence of poor, satisfactory or non-performance by the PSP, taking into consideration the cost and value obtained, performance and customer satisfaction, delivery improvement, delivery capability, benefits realized and relationship strength and responsiveness;
- C. a performance management plan and performance monitoring system that will be used by the City to monitor affordability, service delivery, value for money, quality, and performance improvement, which shall in all cases include:
 - 1. a timetable and start and end date for each performance component, including milestones with accompanying timeframes, dependencies, required or desired outcomes, and acceptable performance levels;
 - 2. requirements and standards to be used to monitor PSP performance;
 - 3. procedures and guidelines for measuring customer satisfaction and mechanisms to solicit end user feedback;
 - 4. submission of regular, accurate and timely reports by the PSP, City personnel or the contract manager, as applicable, to the PPP-RA detailing performance monitoring efforts and the types of information that should be included in such reports;
 - 5. City access to PSP records to allow City personnel to verify the information that the PSP reports to them and to ensure that funds are expended properly;
 - 6. random inspections of PSP records and on-site monitoring visits; and

7. regular meetings with the PSP to review progress, discuss problems and consider necessary changes; and

D. a performance review and corrective actions system that apply to non-compliance or breach of contract, and penalties for non-performance and bonuses for good performance.

SECTION 61. Contract Administration - The contract management manual shall lay down a contract administration system, which shall include:

- a. systems and procedures for variation management, the roles and responsibilities of City personnel, and reportorial requirements for each event of proposed or successful contract variation;
- b. a system for contract maintenance, identifying key contract deliverables and schedules, as well as trigger events; and
- c. systems and procedure for financial administration, including an estimate of the resources that the City will devote thereto, systems and procedures to make and receive financial payments, and rules for keeping records of financial transactions in accordance with the requirements of the contract.

SECTION 62. Contract Termination - PPP Contracts implemented under any of the modalities prescribed by the BOT Law may only be terminated in the following events:

A. If the City fails to comply with any major obligation prescribed in the approved contract, and such failure is not remediable or if remediable shall remain unremedied for an unreasonable length of time, the PSP may, with prior notice to the City, and specifying the turn-over date, terminate the contract. In such an event, the Project Proponent shall be reasonably compensated by the City for actual expenses plus a Reasonable Rate of Return thereon not exceeding that stated in the contract as of the date of contract termination.

B. If the PSP refuses or fails to perform any of the provisions of the approved contract with such diligence as will ensure the project's completion, operation and maintenance in accordance with the prescribed technical and performance standards or otherwise fails to satisfy any of the contract provisions including compliance with the prescribed/agreed milestone activities, or commits any substantial breach of the approved contract, the City shall notify the PSP in writing of the same and if not corrected within the time specified, the City may terminate the contract. In

such an event, the City may:

1. Take over the facility;
2. Allow the PSP's lenders/creditors/banks to exercise their rights and interests under the loan and collateral documents with respect to the project; or
3. Take measures as explicitly provided in the PPP contract

In any case, the City shall forfeit the performance security of the defaulting PSP.

C. In the event that the contract is revoked, cancelled or terminated by (i) the City in accordance with the contract through no fault of the Project Proponent or (ii) by mutual agreement, the City shall compensate the said Project Proponent for its actual expenses incurred in the project plus a Reasonable Rate of Return thereon not exceeding that stated in the contract as of the date of termination.

D. In the event that the contract is revoked or cancelled by a court by final judgment.

In the cases referred to in (A) and (C) above, an independent appraiser, mutually acceptable to the City and the PSP, shall determine the amount to be paid to the PSP, which determination shall be made within a period not more than one hundred eighty (180) calendar days from contract termination. The amount determined by the independent appraiser shall be binding to both the PSP and the City.

For contracts implemented under any of the three (3) additional modalities, namely JVs, MCs, and Lease/Affermage contracts, rules on contract termination shall be governed by provisions on termination stipulated under the PPP Contract.

SECTION 63. Venue for Litigation - The venue for the resolution of disputes, arbitration or litigation shall be exclusively in Quezon City.

SECTION 64. Closeout Procedures - Formal, written closeout procedures shall be included in contract management plan to ensure that all goods and services have been delivered satisfactorily, all properties are disposed accordingly, all City properties are returned, and all amounts due under the PPP contract have been paid.

SECTION 65. Expiring BOT/PPP Contracts and Transfer of and Warranty Over the Facility – Under Contractual Arrangements involving transfer of the facility to the City, the transfer or turnover will necessarily

include the transfer of full legal ownership over the project, all documents, property rights, source codes, equipment, among others which are related to the project in favor of the City, subject to any existing liens as may be agreed upon in the contract. The facility, upon transfer to City, shall be operable and in good condition. The performance indicators for the project/facility and frequency of monitoring the indicators shall be stipulated in the contract. A third-party shall be commissioned to assess the residual value of the facility upon transfer or turnover of the facility to the City. The Project Proponent shall provide warranty that the facility meets the project technical specifications/agreed system features, performance standards and services in connection therewith for a period not less than one (1) year from the turnover of the facility. For this purpose, the Project Proponent shall put up a warranty security in a form to be specified by the City which may be in cash, letter of credit, or bank draft/guarantee issued by a reputable local/foreign bank, or surety bond issued by the GSIS or an entity duly registered and recognized by the office of the Insurance Commissioner, callable on demand and acceptable to the City, or any combination thereof payable to the City, the amount of which shall be determined by the City and shall be stipulated in the contract. The warranty security shall be made effective immediately upon transfer of full legal ownership over the project in favor of the City, as described above.

SECTION 66. Post-Contract Review - A post-contract review shall be conducted at the end of a contract period, which shall include a post-contract analysis, evaluation and reporting of the PPP project, the PSP's performance, and the City's contract management system. The post-contract review shall likewise include a financial audit of the entire PPP project and determination of lessons learned. City policies and procedures shall be updated where required. Notwithstanding the requirement herein, if the PPP contract is subject to renewal or extension, the post-contract review shall be conducted within a reasonable time before the deadline for such renewal or extension.

SECTION 67. Document Control - The PPP-RA shall act as the administrator of documents and correspondence relating to the PPP project and PPP contract. The contract management manual shall:

- a. identify the documents and correspondences that must be retained by the PPP-RA;
- b. require that all such documents be kept in both electronic and paper format during contract life or such longer period as may be required under applicable law; and
- c. lay down the protocol for document storage, logging, accountability, disclosure and access by the parties and the public.

RULE XII
ACCOUNTABILITY, INFORMATION, EDUCATION AND MONITORING

SECTION 68. Code of Conduct - Before commencing their functions, each member of the PPP-SC and PPP-RA and the contract manager shall sign a Code of Conduct, which shall guide each member in the performance of their duties as such.

Such Code of Conduct shall require each member to, among others:

- a. act at all times in accordance with relevant legislation and regulations;
- b. act at all times with fidelity, honesty, integrity and in the best interests of the City and its constituents;
- c. recognize the public's right to access to information in accordance with law;
- d. not misuse his or her position and privileges as a member of the PPP-SC and PPP-RA, whether or not such will prejudice the interest of the public, the PSP, or any third person;
- e. to take the utmost care in ensuring reasonable protection of the records of each PPP project, and to not disclose any confidential and proprietary information, e.g. trade secrets and the like, or in violation of any non-disclosure requirements under law or contract;
- f. carry out his or her duties with the skill and care expected of a person of knowledge and experience, and to exercise prudent judgment;
- g. forthwith report to the appropriate authorities any act of negligence, fraud, corruption, misuse of government funds, failure or refusal to perform duties, or any other act which may constitute a crime or offense, or which is prejudicial to the public interest, in the selection of the PSP and implementation of a PPP contract;
- h. forthwith declare any personal or business interest that he or she, or any of his or her relatives within the fourth degree of consanguinity or affinity, may have in any business of a PSP, in which case, the official or representative shall no longer be a member of the PPP-SC and PPP-RA;
- i. forthwith declare any conflict of interest, insofar as the PPP Project is concerned, that he or she may have or will have, in which case, the official or representative shall no longer be a member of the PPP-SC and PPP-RA;

- j. not vote or act in a particular way on any matter in consideration of any offer, promise, gift or present, from a member of the public, government, a political party, social group or non-governmental organization, or any stakeholder or potential stakeholder;
- k. not receive any gift or anything else of value which is or may be viewed as aimed at influencing or directing his or her vote or actions; and
- l. to disclose immediately to the PPP-SC or PPP-RA as the case may be, any attempted inducement that may be construed as aimed at influencing or directing his or her acts as a member of the PPP-SC and PPP-RA.

SECTION 69. Disciplinary Action - Violation of the Code, this IRR and the Code of Conduct insofar as City elective officials are concerned shall constitute a ground for disciplinary action or amount to loss of confidence under the 1991 LGC and relevant laws. Penalties may be imposed by the PPP-SC and PPP-RA through joint resolution on the erring or negligent member depending on the gravity of the offense or negligence committed/omitted provided that due process has been accorded to the latter. As regards local appointive officials, such violation shall render them administratively liable.

Officials may also be rendered criminally liable under applicable laws and ordinances. Representatives of the PSP shall be held liable for damages, offenses and crimes depending on the nature of their participation and involvement in the unlawful act or omission.

SECTION 70. Social Accountability - The City shall ensure and promote social accountability and eliminate all obstacles hurdling thereto, to allow and enhance constructive engagement between citizens' groups, academe, consumers, rate-payers, general public, City, national government agencies, regulatory agencies, and PSP.

SECTION 71. Transparency and Right to Information - The PPP Contract, feasibility or project studies, bidding documents, terms of reference, results of the PSP selection process, Code of Conduct, Contract Management Manual, minutes of the post-award conference, PPP-RA, and PPP-RA-MC, and other relevant documents and instruments shall be posted in two conspicuous places of the City and uploaded in a dedicated website of the PPP-RA which can be freely accessed by the public. The City shall also implement a strategic communication plan addressed to all stakeholders.

SECTION 72. Capability-Building Program

- a. The City shall design and implement a continuing education and capacity-building program on PPPs for its officials, and the members of the PPP-SC and PPP-RA.

b. The City shall also undertake a comprehensive and sustained education and governance campaign aimed at informing all stakeholders and civil society organizations about PPP ventures of the City and allowing them to participate in the overall PPP program of the City. The program shall include strategic and annual evaluation and planning sessions, workshops, seminars, focus-group discussions on PPPs, market opportunities, projects, management of contracts and regulation of PPPs and other PPP-related topics.

c. The City may tap consultants to assist them in implementing PPPs and in building capability for PPPs.

SECTION 73. Monitoring and Governance Audit Program - The City, in order to ensure transparency and accountability, shall encourage civil society organizations, people's and non-governmental organization and civic aggrupations to establish a PPP monitoring, evaluation and governance audit body functionally and fiscally independent from the City and other government institutions.

SECTION 74. Technical and Financial Assistance - The Department of the Interior and Local Government, Department of Finance, Department of Budget and Management, National Economic and Development Authority and the PPP Center shall extend technical and financial assistance to the City and such assistance shall be embodied in a memorandum of understanding or agreement.

RULE XII FINAL PROVISIONS

SECTION 75. Appropriation - Necessary funds are hereby appropriated from the General Fund and other available funds of the City Government for the implementation of the Code and this IRR, subject to limitations provided under the Local Government Code and other pertinent laws.

SECTION 76. Honoraria of PPP-SC, PPP-RA and Members of the Secretariat – The City shall grant payment of honoraria to the PPP-SC, PPP-RA and members of the Secretariat in an amount not to exceed twenty five percent (25%) of their respective basic monthly salary subject to availability of funds. For this purpose, the Guidelines on the grant of Honoraria to government personnel involved in government procurement under DBM Budget Circular No. 2004-5A issued on October, 2005 shall apply.

SECTION 77. Application of Other PPP Laws and Regulations– Whenever relevant and appropriate as determined by the Mayor and in the absence of a specific provision to the contrary, upon recommendation of the PPP-SC and PPP-RA as the case may be, the provisions of Republic Act No. 6957, as amended by Republic Act No, 7718 or the BOT Law, Republic Act No. 9184

or the Government Procurement Reform Act, Executive Order No. 301 (26 July 1987), Commission on Audit Circular No. 89-296 (January 27, 1989), and their applicable rules and regulations, and the Joint Venture Guidelines adopted by the National Economic Development Authority shall apply in a suppletory manner.

SECTION 78. IRR Committee - The City Mayor may convene a committee to formulate and prescribe amendments or revisions to this IRR consistent with the letter and spirit of Ordinance 2336 Series 2014.

SECTION 79. Separability Clause - If, for any reason, any section or provision of this IRR or any part hereof, or the application of such section, provision or portion is declared invalid or unconstitutional, the remainder thereof shall not be affected by such declaration.

SECTION 80. Repealing Clause - All ordinances and resolutions or parts thereof inconsistent with the provisions of this IRR are hereby repealed or modified accordingly.

SECTION 81. Effectivity - This IRR, and any amendments or revisions thereto, shall take effect fifteen (15) days after its posting in two conspicuous places within the City.